

United States District Court  
Eastern District of Pennsylvania  
601 Market Street  
Philadelphia, PA, 19106

Wessie Sims plaintiff  
4925 W. Stiles Street  
Philadelphia, PA 19131

CV\_12\_5486  
Civil Action

FILED  
MAR 24 2014  
MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

Letter of the Law

To the Honorable, Judge Legrome D. Davis. Your above name respectfully writes to your Honor in regard to CV-12-5486. Where the complaint was dismissed pursuant to Fed. R. Civil P. 4M mandate time limit 120 days. The complaint was filed 9-25-2012 and the summons and complaint was delivered 11-21-2012 as confirmed by U.S. postal service track and confirmed by its label numbers confirming day, date, time, and delivered.

In the city attorney's brief filed 5-13-2013, the attorney states: although the law department has not entered an appearance on behalf of the non-served individual defendants we nonetheless submit this argument on appeal. By stating that the individual defendants were non-served, this was a false statement which constitutes fraud. The city attorney caused plaintiff legal rights to the affected.

The uttering of that which is false for the purpose of deceiving is an intentional misstatement. Ward V. University of South 209, Tenn. 412, 345 S.W. 2d. 246, 248.

A falsehood cannot be sustained

Schapiro V. Tweedie Footwear Corporation.  
C.C.A pa. 131. F. 2d. 876, 878.

Held: Such or more than erroneous or untrue and import intention to deceive.

See: Federal Criminal Statute  
Governing False Statements  
18 U.S.C.A. 1001

Fraus et dolus nemini patrocinari debent.  
Fraud and deceit should defend or excuse no man.

False has two distinct and well recognized meanings:

1. Intentionally, knowingly, or negligently untrue or
2. Untrue by mistake or accident, or honestly after the exercise of reasonable care.

Metropolitan Life Ins. Co V.  
Adams. D. C. Mun, App. 37  
A. 2d. 345, 350

The summons in the civil action signed and seal 9-25-12 by Deputy Clerk of Court stating Fed. Law, if you fail to respond judgment by default will be entered against you for the relief demanded in the complaint.

Where co-defendant against whom a judgment for affirmative relief is sought has failed to answer they are in default.

A judgment by default may be entered either by the Clerk or the Court.

Fed. R. Civil p. 55.

More over in the instant case plaintiff have not received her right to be heard, this is a denial of due process. The concept of due process of law as it is embodied in the V. Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought.

U.S. V. Smith D.C. Iowa, 249, F. Supp.  
515, 516

The fundamental requisite of due process is the opportunity to be heard. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property in its most comprehensive sense to be heard, by testimony , or otherwise, and to have the right of controverting by proof.

Pennoyer V. Heff, 95, U.S.  
733, 24, L. Ed. 565.

Due process requires an opportunity to be heard and to enforce, and protect a person's rights before a court having power to hear and determine the case.

Kazubowski V. Kazubowski  
45, 2d, 405, 259, N.E. 2d  
282, 290.

The concept of due process of law embodied in the V. Amendment pertains to the Federal Government in which a person is guaranteed fair procedures.

Without a hearing plaintiff is being denied due process, and denied equal protection of the laws. The Constitution guarantees that right to every person regardless of his background.

Shelly V. Kraemer 334, U.S. 1, (1948).

### Article III

The primary source of powers of Federal Courts is provided in art. III of the United States Constitution.

Section 2. The Judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States.

Judicial proceeding wherein Judicial action is invoked and taken, a proceeding wherein there are parties who have an opportunity to be heard, and any proceeding to obtain such remedy as the law allows wherein the tribunal proceeds either to a determination of facts upon evidence, or of law upon proved or conceded facts.

Mannix V. Portland Telegram  
144, or. 172, 23, p. 2d, 138

In respect of Civil Rights, common to all citizens the Constitution of the United States is color blind. Although the white race deems itself to be the dominant race in this country, and so it is, in prestige, in achievements, in education, in wealth and in power. But in view of the

Constitution in the eye or the law, there is in this country no superior, dominant, ruling class of citizens, there is no caste here.

In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account to his surroundings, or his color when his civil rights are guaranteed by the supreme law of the land is involved. All judges have sworn to defend and uphold the Constitution.

Judicial oath as distinguished  
From a non-judicial oath

An oath of office is required by federal and State Constitution who are about to enter upon the duties of a public office, concerning their performance of that office.

E.g. 28 U.S. C.A. 544.

Official oath whereby he declares that he will faithfully discharge the duties of the same, or whatever else may be required by statute in the particular case.

Art. VI. U.S. Constitution

Oath of Allegiance

Art. II, sect. 1, and art, VI, U.S. Constitution it is commonly provided that an affirmation may be given in lieu of an oath.

Affirmation in lieu of oath:

Fed R. Civil procedure 43 provides:

That whenever an oath is required under the rules, a solemn affirmation may be accepted in lieu thereof art. II, sec. 1, and art. VI, U.S. Const.

## The Constitution of the United States

### Preamble:

We the people of the United States in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I.

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article VI section 2.

This Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States shall be the Supreme Law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

Article III

Sect (1) The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts shall hold their offices during good behavior.

The Pennsylvania Constitution signed in Philadelphia July 15, 1776 by Benjamin Franklin. Sect. 46 The declaration of rights is hereby declared to be a part of the Constitution of this Commonwealth and ought never to be violated on any pretense whatever.

Where the city attorney falsely stated in her brief that the individual defendants were none-served and submitted this argument on appeal, fraudulent conduct was used to build a fraudulent defense, because fraud is always the result of contrivance and deception practiced by the party.

Where injustice is the fault or error of the Court.

Injustice is done by the negligence, mistake  
or omission of the Court itself.  
Silvey V. U.S. 7 ct. CL. 305, 324.

A mistake of law happens when a party having full knowledge of the facts comes to an erroneous conclusion as to their legal effect. It is a mistaken opinion arising from an imperfect and incorrect exercise of the judgment upon facts.

Page V. Provines, 179, okl, 391, 66, p. 2d, 7, 10.

Error substantially affects an appellants  
legal rights and obligations.

Erskine V. Upham  
56, Cal. App, 2d. 235. 132. p. 2d 219, 228.

Due to prejudicial error that occurred.

State V. Gilerist 15 Wash. App. 892, 552, p, 2d. 690, 693.

Such may be ground for new trial and reversal of judgment.

Fed. R. Civil p. 59.

Due process requires that all parties to an action civil or criminal receive a trial by an impartial jury or tribunal free from outside influences.

Sheppard V. Maxwell  
384, U.S. 333, 86 Supreme Ct. 1507, 16, L. Ed. 2d. 600.

Under the law it is unjust to decide or respond as to any particular part of a law without examining the whole of the law.

Supreme ct. Oct. 1879 Exparte Virginia.

Sect. 3. Whoever by virtue of his public position under a state government deprives another of life, liberty, or property without due process of law or denies or takes away the equal protection of the laws violates that inhibition.

The courts conclusion in United States V. Classic 313

U.S. 299, 326 (1941):

The misuse of power possessed by virtue of State law and made possible only because the wrongdoer is clothed with the authority of State law is action taken under color of State law was founded on the rule announced in *ex parte Virginia* 100. U.S. 339, 346-347, (1880) that the actions of a state officer who exceeds the limits of his authority constitutes state action for the purposes of the XIV Amendment.

Sect. 2. The section of the act entitled on act to protect all citizens in their civil and legal rights approved March 1, 1875 authorized by the XIII and XIV Amendment.

Sect. 19. Of the criminal code making it a crime to conspire to injure or oppress any citizen in the free exercise of any right or privilege secured to him by the United States Constitution.

April 9, 1866 reenacted an act to protect all persons in the United States in their civil rights and furnish the means of their vindication. The Civil Rights Bill reenacted 1866, CH. 31. Vol. XIV. p. 27. Sections sixteen and seventeen hereof shall be enforced according to the provisions of said act. Sec. sixteen. And be it further enacted, that all persons have the same right in every state and territory to the full and equal benefit of all laws, as enjoyed by white citizens. Sec. seventeen. And be it further enacted penalty for violation of provisions of preceding section.

April 20, 1871 any person under color of any law of any State depriving another of any right secured by the Constitution of the United States made liable to the party injured, proceedings to be in the courts of the United States.

Where co-defendant are in default Fed. R. Civil p. 55 for failure to appear. This default embraces the idea of dishonesty and of wrongful act.

Greco V. S. S. Kresge Co. 277, N.Y. 26, 12  
NE. 2d. 557, 562

Or an act of omission discreditable of one's profession.

Hilkert V. Canning 58, Ariz, 290,119, p. 2d. 233, 236.

Issuing executive Order No. 9808.

Dec 5, 1946 11 F. R. 141 53 Statement

By President Harry S. Truman.

Provides: The Constitutional guarantee of individual liberties and equal protection under the laws clearly place on the Federal Government the duty to act when state or local authorities abridge or fail to protect these constitutional rights.

Plaintiff request your Honor afford her day in court the right and opportunity afforded her to litigate her claims and defend her rights before this court of original jurisdiction.

A litigant has his day in court when he has been duly cited to appear and has been afforded an opportunity to appear and be heard.

Cohen V. City of Houston Tex. Civ. App  
185, S.W. 2d. 450, 452

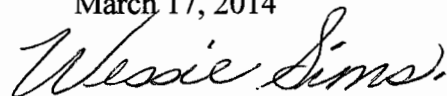
In re Hampton's Estate, 55, Cal, app, 2d.  
543, 131 p 2d. 565, 573.

In regard to Federal Laws policies and established procedures plaintiff request your Honor afford her due process right to be heard.

Defendant label NO.  
Track and Confirm  
U.S.P.S Document Enclosed.  
Day, date, time, and delivered.  
Confirmed by the Federal Government

Respectfully Submitted  
Wessie Sims Plaintiff

March 17, 2014



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## Available Actions

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